

Message Text

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TO SECSTATE WASHDC PRIORITY 6811

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 8591

E.O. 11652: N/A

TAGS: UNCTAD, EGEN

SUBJECT: UNCTAD - GROUP B MEETING ON CODE OF CONDUCT FOR THE
TRANSFER OF TECHNOLOGY

REF: GENEVA 8459

1. THE FOLLOWING IS THE TEXT OF THE CONCLUSIONS REACHED BY
THE GROUP B MEETING ON NOVEMBER 11 CIRCULATED BY THE
CANADIAN MISSION:

QUOTE: CODE OF CONDUCT FOR THE TRANSFER OF TECHNOLOGY, REPORT
ON INFORMAL MEETING ON "SPECIAL TREATMENT" IN DRAFT CODE
OF CONDUCT, GENEVA, NOVEMBER 11, 1975.

IN ACCORDANCE WITH THE DECISION OF THE OECD AD HOC POLICY
GROUP ON MULTINATIONAL ENTERPRISES, A MEETING WAS HELD
AT THE PERMANENT MISSION OF CANADA, GENEVA, ON NOVEMBER 11,
TO DISCUSS THE QUESTION OF REFERENCES TO SPECIAL TREATMENT
FOR DEVELOPING COUNTRIES IN THE PROPOSED GROUP B DRAFT
CODE OF CONDUCT FOR THE TRANSFER OF TECHNOLOGY. THE DELE-
GATIONS REPRESENTED AT THE MEETING AGREED THAT FOR THE
DISCUSSION TO BE RELEVANT TO THE WORK UNDERWAY ON THE
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DRAFT CODE THE SPECIAL TREATMENT ISSUE SHOULD BE CON-

SIDERED IN TERMS OF AMENDMENTS TO THE TEXT DEVELOPED IN THE AD HOC POLICY GROUP. FOLLOWING ON THE DISCUSSION AT PREVIOUS MEETINGS OF THE AD HOC POLICY GROUP, IT WAS THE MAJORITY VIEW THAT THE POSITION OF DEVELOPING COUNTRIES SHOULD BE REFLECTED IN THE PREAMBLE AND THAT CHAPTER VI OF THE DRAFT CODE SHOULD BE EXPANDED TO COVER SPECIAL MEASURES FOR THE DEVELOPING COUNTRIES. FINALLY, WHILE THE GROUP EXAMINED OTHER REFERENCES TO DEVELOPING COUNTRIES IN THE DRAFT CODE IT WAS UNABLE TO RESOLVE ALL DIFFERENCES OF VIEW ON THE INCLUSION OF SUCH REFERENCES.

THE RECOMMENDATIONS OF THE INFORMAL GROUP ARE CONTAINED IN THE ATTACHED SERIES OF AMENDMENTS TO THE DRAFT CODE. IT WAS AGREED THAT THE AMENDMENTS SHOULD BE CIRCULATED TO ALL MEMBERS OF GROUP B WITH THE EXPECTATION THAT THEY WOULD BE DISCUSSED AT THE GROUP B MEETING ON NOVEMBER 21 PREPARATORY TO THE FIRST SESSION OF THE UNCTAD COMMITTEE ON THE TRANSFER OF TECHNOLOGY. REPRESENTATIVES OF THE FEDERAL REPUBLIC OF GERMANY, AUSTRALIA, BELGIUM, CANADA, USA, ITALY, JAPAN, NETHERLANDS, UK, SWITZERLAND, SWEDEN AND TURKEY ATTENDED THE MEETING. UNQUOTE. SIGNED W. H. MONTGOMERY, COUNSELOR, PERMANENT MISSION OF CANADA.

2. FOLLOWING IS QUOTE PROPOSED "SPECIAL TREATMENT" AMENDMENTS TO DRAFT GROUP B OUTLINE OF A CODE OF CONDUCT CONSISTING OF GUIDELINES FOR THE INTERNATIONAL TRANSFER OF TECHNOLOGY. UNQUOTE

PROPOSED AMENDMENTS TO GROUP B TEXT AGREED TO IN PARIS:

QUOTE PART A, PREAMBLE:

PARA 1, LINE 2: DELETE (RECALLING PERTINENT UN RESOLUTION,)

PARA 2, SUB-PARA 1, LINE 3: RETAIN PHRASE: "ESPECIALLY THE DEVELOPING COUNTRIES,"

PARA 5: DELETE AND REPLACE BY: "CONVINCED THAT GUIDELINES WILL ASSIST THE DEVELOPING COUNTRIES IN THEIR SELECTION LIMITED OFFICIAL USE

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AND ACQUISITION OF TECHNOLOGY APPROPRIATE TO THEIR NEEDS IN ORDER TO DEVELOP IMPROVED ECONOMIC STANDARDS AND LIVING CONDITIONS,"

PARA 6, LINE 4: DELETE AND REPLACE BY: "....MAXIMISED BY TAKING INTO ACCOUNT INTER ALIA THE FOLLOWING CONSIDERATIONS: 5) "SPECIAL NEEDS OF DEVELOPING COUNTRIES, INCLUDING THE ECONOMIC, FINANCIAL AND TECHNOLOGICAL

POSITION OF THEIR ENTERPRISES."

PART B:

CHAPTER I:

PARA 1.5: DELETE AND REPLACE BY: "DEVELOPMENT OF INDIGENOUS TECHNOLOGICAL CAPABILITIES SHOULD BE PROMOTED."

CHAPTER IV:

CHATEAU: DELETE AND REPLACE BY: "TO ENSURE THE MAXIMUM MUTUAL BENEFIT TO ALL PARTIES TO TECHNOLOGY TRANSFER AGREEMENTS,"

PARA 4.1 (IV), LINE 4: DELETE: "ESPECIALLY THOSE IN DEVELOPING COUNTRIES,"

CHAPTER V:

HEADING: DELETE: (SPECIAL MEASURES FOR DEVELOPING COUNTRIES)

NOTE: THE MEETING ALSO CONSIDERED THE PHRASE "WITH DEVELOPING COUNTRIES" IN PARA 5.1 OF CHAPTER V BUT, GIVEN THE DIFFERENCE OF VIEW EXPRESSED ON THE APPLICATION OF CHAPTER V ON RESTRICTIVE BUSINESS PRACTICES, THE GROUP WAS UNABLE TO TAKE A DECISION ON THE RETENTION OR DELETION OF THE PHRASE. IT WAS AGREED THAT THE PHRASE SHOULD BE MAINTAINED IN SQUARE BRACKETS.

CHAPTER VI:

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HEADING: DELETE "INTERNATIONAL COLLABORATION" AND REPLACE BY: "INTERNATIONAL COLLABORATION AND SPECIAL MEASURES FOR DEVELOPING COUNTRIES"

PARA 6.1: DELETE AND REPLACE BY: "INTERNATIONAL COLLABORATION AMONG ALL GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS SHOULD BE INCREASED TO ENCOURAGE AND FACILITATE AN EXPANDED INTERNATIONAL FLOW OF TECHNOLOGY. SUCH COLLABORATION ON A MULTILATERAL OR BILATERAL BASIS, SHOULD TAKE, INTER ALIA, THE FOLLOWING FORMS:

(IV) "PROVISION, TO THE EXTENT PRACTICABLE, TO RECIPIENT COUNTRIES, OF APPROPRIATE INFORMATION REGARDING THE AVAILABILITY, DESCRIPTION, AND LOCATION OF TECHNOLOGIES;"

(VI) "ACTION THROUGH INTERNATIONAL ARRANGEMENTS TO AVOID, AS FAR AS POSSIBLE, IMPOSITION OF DOUBLE TAXATION ON EARNINGS AND PAYMENTS ARISING OUT OF TECHNOLOGY TRANSFER ARRANGEMENTS."

PARA 6.2 (NEW):

CHAPEAU: "GOVERNMENTS OF DEVELOPED COUNTRIES AND INTERNATIONAL ORGANIZATIONS, IN ORDER TO FACILITATE AND ENCOURAGE THE GROWTH OF SCIENTIFIC AND TECHNOLOGICAL CAPABILITIES OF DEVELOPING COUNTRIES SO AS TO ASSIST THEM IN THEIR EFFORTS TO FULFILL THEIR ECONOMIC AND SOCIAL DEVELOPMENTS, SHOULD TAKE THE FOLLOWING MEASURES:

(I) FACILITATE ACCESS BY DEVELOPING COUNTRIES TO INFORMATION REGARDING THE AVAILABILITY, DESCRIPTION AND LOCATION OF TECHNOLOGIES WHICH MIGHT HELP THOSE COUNTRIES TO ATTAIN THEIR ECONOMIC AND SOCIAL DEVELOPMENT OBJECTIVES, AND ASSIST IN ASSESSING THE SUITABILITY OF SUCH TECHNOLOGY TO MEET THE PARTICULAR NEEDS OF THE DEVELOPING COUNTRY CONCERNED;

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(II) ASSIST DEVELOPING COUNTRIES IN THE DEVELOPMENT OF

INDIGENOUS TECHNOLOGIES BY FACILITATING ACCESS TO PUBLICLY AVAILABLE SCIENTIFIC AND INDUSTRIAL RESEARCH DATA;

(III) ENCOURAGE SOURCE ENTERPRISES TO CO-OPERATE, TO THE EXTENT PRACTICABLE AND APPROPRIATE, IN THE DEVELOPMENT OF SCIENTIFIC AND TECHNOLOGICAL RESOURCES OF RECIPIENT ENTERPRISES IN DEVELOPING COUNTRIES AND IN THE CREATION OF INNOVATIVE CAPACITY IN THOSE ENTERPRISES THE TRAINING OF RECIPIENT ENTERPRISE EMPLOYEES;

(IV) (CO-OPERATE WITH DEVELOPING COUNTRIES IN WORKING TOWARDS THE ESTABLISHMENT OF A PROFESSIONAL INTERNATIONAL RESEARCH FACILITY TO ASSIST THOSE COUNTRIES IN IDENTIFYING THE RANGE OF POSSIBLE TECHNOLOGIES SUITABLE FOR INDUSTRIAL DEVELOPMENT PROGRAMMES OR PROJECTS.)" (SQUARE BRACKETS)

PARA 6.3 (NEW):

CHAPEAU: "GOVERNMENTS OF DEVELOPED COUNTRIES, DIRECTLY OR THROUGH APPROPRIATE INTERNATIONAL ORGANIZATIONS, IN ASSISTING IN THE TRANSFER OF TECHNOLOGY TO THE DEVELOPING COUNTRIES SHOULD, WITHIN THEIR OFFICIAL DEVELOPMENT LIMITED OFFICIAL USE

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ASSISTANCE PROGRAMMES, BE RESPONSIVE TO REQUESTS FROM DEVELOPING COUNTRIES TO:

(I) PROVIDE UNDER DEVELOPMENT ASSISTANCE OR SCIENTIFIC AND INDUSTRIAL RESEARCH EXCHANGE PROGRAMMES EXPERTS TO MAKE A CONTRIBUTION TO THE DEVELOPMENT OF INDIGENOUS TECHNOLOGY IN DEVELOPING COUNTRIES;

(II) TRAIN SCIENTIFIC AND INDUSTRIAL RESEARCH PERSONNEL ENGAGED IN THE DEVELOPMENT OF INDIGENOUS TECHNOLOGIES IN DEVELOPING COUNTRIES;

(III) PROVIDE TRAINING IN THE DEVELOPMENT AND ADMINISTRATION OF LAWS AND REGULATIONS RELATING TO THE INTERNATIONAL TRANSFER OF TECHNOLOGY AND TO THE PROVISION OF GENERAL ASSISTANCE AND ADVICE IN THIS FIELD." UNQUOTE

3. COMMENTS: THE DELETION OF PARA 1 LINE 2 OF THE PREAMBLE WAS BASED ON THE BELIEF THAT THE REFERENCES TO PERTINENT UN RESOLUTIONS WOULD INEVITABLY CONTAIN REFERENCES TO THE CERDS AND NIEO WHICH WOULD TEND TO CASE THE ENTIRE DRAFT CODE IN TERMS OF NEEDS OF THE DEVELOPING COUNTRIES TO THE DETRIMENT OF THE UNIVERSALLY APPLICABLE NATURE SOUGHT BY GROUP B. IT WAS BELIEVED THAT SUCH REFERENCES MIGHT BE CONTAINED IN A SEPARATE COVER-

ING RESOLUTION. MOST PARTICIPANTS WERE WITHOUT SPECIFIC INSTRUCTIONS, THUS THE PROPOSED CHANGES ARE AD REFERENDUM ONLY. HOWEVER, THE ADDITIONS MADE IN CHAPTER VI CONCERNING SPECIAL MEASURES FOR LDCS WAS FELT TO MERELY REFLECT THE CURRENT PRACTICES OF THE DEVELOPED COUNTRIES IN ASSISTING THE LDCS AND WOULD, THEREFORE, MOST LIKELY BE ACCEPTABLE TO GROUP B AS A WHOLE. DALE

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